



April 24, 2023

The Honorable Peter Kirsanow
Acting Chair, United States Commission on Civil Rights
1331 Pennsylvania Ave., NW, Suite 1150
Washington, DC, 20425

Re: "The Federal Response to Anti-Asian Racism"

Dear Acting Chair Kirsanow:

Pacific Legal Foundation ("PLF") submits this comment regarding the Commission's recent briefing on "The Federal Response to Anti-Asian Racism." PLF is the nation's leading law firm defending equality before the law. We represent clients in courts across the country and advocate for individual liberty and limited government. PLF attorneys have extensive experience representing clients in challenging laws and policies that implement illegal race or gender balancing or that classify citizens based on protected categories. PLF attorneys also provide expertise on equal protection matters to policymakers through legislative testimony, rulemaking petitions, and policy papers.

The Constitution and Title VI of the Civil Rights Act of 1964 promise that government and recipients of government money will treat individuals as individuals and not on the basis of race or skin color. In spite of that bedrock moral principle enshrined in constitutional and civil rights law, racial discrimination against Asian Americans is a significant problem in education. This comment letter summarizes cases where PLF represents Asian American students and parents challenging racial discrimination in K-12 education. It also discusses the Supreme Court cases in which PLF has filed amicus briefs regarding anti-Asian discrimination in higher education. Unfortunately, these cases demonstrate that anti-Asian discrimination is rampant in education.

Yet the federal agencies charged with enforcing Title VI's prohibition on racial discrimination have ignored the problem or even affirmatively supported the discriminating institutions. The Commission should recommend that agencies responsible for defending these civil rights—most importantly, the Department of Justice's Civil Rights Division and the Department of Education's Office for Civil Rights—take more vigorous measures against anti-Asian discrimination in education. Appropriate enforcement actions might include, but are not limited to, targeted compliance reviews of funding recipients likely to be discriminating against Asian-Americans or rules or interpretative guidance making clear that Title VI prohibits anti-Asian discrimination.

Enforcing Title VI's prohibition on anti-Asian discrimination does not preclude increasing opportunity for members of other groups. Although PLF's litigation strategy for increasing opportunity perhaps cannot readily be copied by civil rights enforcement agencies, it nonetheless can provide guidance on how it is possible to protect the rights of Asian American students while carving out paths to opportunity for all.

I. Although Anti-Asian Discrimination in K-12 Education is Prohibited under Federal Civil Rights Law, It is Widespread Because the Relevant Civil Rights Enforcement Agencies are Either Ignoring the Problem or Actively Supporting the Discriminating Institutions.

The Constitution's guarantee of equal protection under the law prohibits government discrimination based on race, color, or national origin, and Title VI of the Civil Rights Act prohibits discrimination by federal funding recipients based on race, color, or national origin.¹ Nearly all public K-12 school districts and colleges and universities receive funds from the federal government and are thus subject to Title VI's ban on race discrimination. The Department of Justice's Civil Rights Division ("CRT") and the Department of Education's Office for Civil Rights ("OCR") jointly enforce this provision and ensure that schools comply with Title VI.

Yet some school districts have revamped their admissions procedures at magnet schools with the clear, often express, intention to discriminate against Asian American applicants. The blatant discrimination against Asian American students in Fairfax County, Virginia; Montgomery County, Maryland; New York City; and Boston are unfortunate examples of these all-too-widespread violations of the applicable civil rights laws.

A. Because of Anti-Asian Discrimination, Asian American Students in Northern Virginia Are Being Denied Educational Opportunities in Science, Technology, Mathematics, and Engineering.

Thomas Jefferson High School in Alexandria, Virginia, ("TJ") is a magnet school specializing in science and mathematics education for gifted students. While TJ's sometimes highly competitive environment is not the right fit for every student, many of its graduates value how much it has pushed them to extraordinary accomplishment. As entrepreneur Howard Lerman observed, TJ gave him the opportunity to start multiple companies, back dozens more, and create thousands of jobs.² TJ's famously competitive admissions process, which featured a demanding set of standardized tests, worked well at identifying students who were a good fit for its academically rigorous programs.

Yet in fall 2020, the Fairfax County School Board, which governs admissions to TJ, overhauled the admissions process. The new admissions policy scrapped the standardized test requirement and replaced it with a system that allocated most seats to the top 1.5% of students from each middle school in the Fairfax County Public Schools. Students who attended underrepresented middle schools but were not in the top 1.5% of their classes also received an additional boost when being considered for the remaining seats. Because Asian American students disproportionately attend particular Fairfax County middle schools, the new system was intentionally designed, as a federal judge later determined, to

¹ 42 U.S.C. § 2000d.

² <https://twitter.com/howard/status/1497766101375062023>.

decrease their representation at TJ. Not surprisingly, in the first year after the plan was implemented, the admitted class fell from 73% Asian American to 54% Asian American.³

The Board barely attempted to conceal their racial motive for revamping the policy. After George Floyd's murder and the ensuing protests, Fairfax County officials lamented that TJ's demographics didn't reflect county demographics.⁴ A Board member announced that she expected "intentional action" to change these numbers.⁵ At around the same time, bureaucrats in Richmond were pressuring superintendents to change the demographics of Virginia's Governors' Schools.⁶

Board members consistently acknowledged that any change intended to benefit other demographic groups would disproportionately displace Asian-American applicants. In an undated text sometime in the fall of 2020, School Board member Stella Pekarsky told fellow member Abrar Omeish that the new proposal "will whiten our schools and kick [out] Asians. How is that achieving the goal of diversity?" Later on, Ms. Omeish said, "I mean there has been an anti Asian feel underlying some of this, hate to say it lol!" Ms. Pekarsky responds, "Of course it is."⁷ After considering a few different proposals to restructure the admissions process, including a "Merit Lottery" and a completely holistic review process, all of which had demographic change as the main goal,⁸ the Board approved 10-1-1 the top 1.5% plan in December 2020.⁹

Represented by Pacific Legal Foundation, a group of parents called the Coalition for TJ sued in federal court to challenge the new admissions scheme in March 2021.¹⁰ The Coalition for TJ won its motion for summary judgment overturning the discriminatory admissions policy in February 2022, holding that the discriminatory new scheme violated the Constitution, but the Court of Appeals for the Fourth Circuit issued a stay preventing the judgment from going into effect. The Coalition for TJ filed an emergency motion with the Supreme Court seeking to lift the stay and have the district court ruling go into effect for the current admissions cycle. It was denied, with Justices Thomas, Alito and Gorsuch in dissent. The appeal on the merits was subsequently briefed and argued but remains pending in the Fourth Circuit.

The federal government became involved when *Coalition for TJ v. Fairfax County School Board* reached the Fourth Circuit, when the Department of Justice's Civil Rights Division filed an amicus curiae brief on the side of the school board engaged in anti-Asian discrimination. The amicus brief downplays the admissions scheme's negative and knowing effects on Asian American students. The word "Asian"

³ *Coalition for TJ v. Fairfax County School Board*, 2022 WL 579809 (E.D. Va. Feb. 25, 2022.) The 75% figure was not an outlier. For the preceding five years, the admitted TJ class had never been less than 65% Asian American. Slip op. at 2.

⁴ Slip op. at 6.

⁵ *Id.* at 17.

⁶ Brief in Support of the Motion for Summary Judgment at 20–21, available at [2021.12.03-PLF-Brief-ISO-MSJ-Coalition-for-TJ-3-1607.pdf](https://www.pacificlegal.org/files/2021.12.03-PLF-Brief-ISO-MSJ-Coalition-for-TJ-3-1607.pdf) ([pacificlegal.org](https://www.pacificlegal.org)).

⁷ Quoted in Walter McGurn, *An Ugly Game of Racial Preferences*, *The Wall Street Journal*, Jan. 10, 2022, available at <https://www.wsj.com/articles/an-ugly-game-of-race-preferences-thomas-jefferson-high-school-asian-american-black-hispanic-lawsuit-discrimination-admissions-11641853307>

⁸ Brief in Support of the Motion for Summary Judgment at 25.

⁹ *Id.* at 23.

¹⁰ Complaint, *Coalition v. TJ v. Fairfax County School Board*, Case 1:21-cv-296 (March 10, 2021), available at [Coalition-for-TJ-v.-Fairfax-County-School-Board.pdf](https://www.pacificlegal.org/files/2021.12.03-PLF-Brief-ISO-MSJ-Coalition-for-TJ-3-1607.pdf) ([pacificlegal.org](https://www.pacificlegal.org)).

does not appear until page 24, and it does not cite any of the anti-Asian statements made by Board members or other school officials. The brief ultimately recommended remand to the district court.

B. Because of Anti-Asian Discrimination, Asian American Students in Montgomery County, Maryland, Have Been Denied Educational Opportunities at Magnet Middle Schools.

On the other side of the Potomac River, Montgomery County similarly restructured its admissions process for magnet middle schools to reduce the numbers of Asian American students attending them. Montgomery County Public Schools (“MCPS”) operates four selective middle school magnet programs—two focus on humanities and two focus on Science, Technology, Engineering, and Mathematics (STEM).¹¹

These magnet schools offer valuable opportunities to gifted students who want to push themselves academically beyond what they could achieve in a regular classroom, opportunities that are especially valuable to children whose parents lack the means to send them to expensive private schools. In 2014, Asian American students occupied 45.5% of the magnet middle school seats. The school district found this number objectionable, and so it hired a consulting firm to study the district’s academic programs and recommend ways to make them more “equitable.”

Based on the consulting firm’s report, MCPS revised its magnet middle schools admissions process to generate different demographic results. It ended up factoring in whether applicants attended feeder schools with academic peer groups, defined as a cohort of 20 or more students with comparable academic achievements.¹² That’s a rather odd factor to weigh, but it is one of the few that would secure the discriminatory result that the school board was after. Because Asian American students in Montgomery County disproportionately cluster in academically high-achieving elementary schools, the peer group criterion essentially excluded high-performing Asian American students from magnet schools merely because those students attended elementary school alongside other high performing Asian American students.¹³ In addition, the new rules norm the admissions test (the Cognitive Abilities Test) according to the socioeconomic status of the student’s elementary school. The local norming of the Cognitive Abilities Test scores means students compete with other students from schools with similar poverty levels. This also results in fewer Asian American students gaining admission, as they are clustered in relatively low poverty schools.

Represented by Pacific Legal Foundation, the Association for Education Fairness—a group of parents whose children sought admission to magnet middle schools—challenged Montgomery County’s admissions changes. The Association argued that the alterations violated the Fourteenth Amendment because they were overwhelmingly animated by an intent to reduce the number of Asian American students at the magnet middle schools and had the effect of doing precisely that. The district court denied the school board’s motion to dismiss, holding that the statements of board members could reflect a discriminatory purpose and there was “no real dispute” that the revised admissions scheme “disproportionately affected Asian American students.”¹⁴

¹¹ See *Ass’n for Educ. Fairness v. Montgomery Cnty. Bd. of Educ.*, No. 20-2540, 2021 WL 4197458 (D. Md. Sept. 15, 2021), slip op. at 3; Compl. at 7.

¹² *Ass’n for Educ. Fairness*, 2021 WL 4197458, slip op. at 12.

¹³ *Id.* at 13.

¹⁴ *Id.* at 34, 36.

In 2020, when pandemic restrictions made in-person administration of the Cognitive Abilities Test infeasible, MCPS adopted a supposedly temporary Pandemic Plan for magnet school admissions. Even though most other pandemic restrictions have faded away, MCPS has not returned to its older admissions scheme. Because the admissions plan challenged by the Association for Education Fairness is no longer in effect, the federal district court dismissed the case in July 2022.¹⁵

C. Because of Anti-Asian Discrimination, Asian American Students in New York City Are Being Denied Educational Opportunities at Magnet High Schools.

New York City's nine specialized high schools are among the most academically rigorous and prestigious in the country. Their students' achievements are all the more impressive given that many students are recent immigrants and come from poor backgrounds. According to the demographics of one recent class at Stuyvesant High School, for instance, 44.3% of students are eligible for free or reduced-price lunch, and 75% of students score over 1470 out of 1600 on the SAT I.¹⁶

Admission to these schools has long been governed by performance on objective standardized tests. Yet that was not enough for then-Mayor Bill de Blasio and Richard Carranza, then-Chancellor of the New York City Department of Education. The problem, as they saw it, is that the percentage of Asian American students at these schools outnumbered the percentage of Asian Americans in the general population. According to de Blasio, the fact that the demographics in specialized schools did not reflect the demographics of the general population was a "monumental injustice."¹⁷

With an eye toward achieving different racial numbers, New York City school officials revised the Discovery program, which originally offered economically disadvantaged students scoring just below the exam cut-off an opportunity to attend specialized schools. Beginning with the 2018–19 admissions cycle, however, Mayor de Blasio and Chancellor Carranza revised the definition of "economically disadvantaged" with the goal of cutting off access to students from low-income schools who were predominantly Asian American.

Pacific Legal Foundation represents a group of plaintiffs, including a parent-teacher organization at Christa McAuliffe Intermediate School, challenging the admissions revisions. Students at Christa McAuliffe previously qualified for admission to specialized schools through the Discovery Program. The school was considered "economically disadvantaged" because roughly two-thirds of its students came from households meeting the federal poverty criteria. But in an effort to change the racial composition at specialized schools, Mayor de Blasio and Chancellor Carranza revised the Discovery Program to exclude Christa McAuliffe's students—most of whom were low-income Asian American students. As a result, Asian American students whose parents were not wealthy enough to send them to private school could now no longer access specialized schools under a program designed for students with precisely their socioeconomic status. An appeal is pending in the Second Circuit.

¹⁵ Memorandum Opinion on Motion to Dismiss, ECF No. 99, *Ass'n for Education Fairness v. Montgomery County Board of Education*, Civil Action No. 8:20-cv-02540-PX (D. Maryland 2022).

¹⁶ Compl., ECF No. 1 at ¶ 17 (2017–18 demographics), *Christa McAuliffe PTO v. de Blasio*, No. 18-11657, (S.D.N.Y. Dec. 13, 2018)

¹⁷ Bill de Blasio, *Mayor Bill de Blasio: Our specialized schools have a diversity problem. Let's fix it*, Chalkbeat (June 2, 2018).

D. Because of Anti-Asian Discrimination, Asian American Students in Boston Are Being Denied Opportunities to Attend Prestigious Magnet High Schools.

Boston Public Schools (“BPS”) operates three prestigious “exam schools” for students in grades 7-12. The Boston Latin School, recognized as the nation’s oldest public school, along with the Boston Latin Academy, and the John D. O’Bryant School of Mathematics and Science, are three of the most highly regarded public high schools in America. Admission to these schools was traditionally decided on a merit-based “composite score” comprised of grade point average (GPA) and an admissions exam. Students were admitted according to score rankings until each school was full.

BPS grew dissatisfied with these schools’ racial composition. In 2019, the school district set out to change the admissions policy in a process that was blatantly, transparently—and unconstitutionally—focused on race. One working group member said the new policy’s goal was “rectifying historic racial inequities afflicting exam school admissions for generations.”¹⁸ Others expressed explicit racial animus, including School Committee Chair Michael Loconto, who was caught on a hot mic mocking Chinese names. School Committee members Rivera and Oliver-Davila laughed about the incident over text message as it occurred, with Oliver-Davila saying “What did I just miss? Was that ML saying Shannana and booboo???” and Rivera responding “I think he was making fun of the Chinese names! Hot mic!!!”.¹⁹ Rivera then wrote that she “almost laughed out loud” and was “[g]etting giddy here!”²⁰ Loconto apologized for his actions and resigned from the School Committee the next day.²¹ Oliver-Davila, despite being seemingly comfortable with Loconto’s comments, became acting chairperson.²²

The school board ultimately replaced the established citywide admissions process with zip code quotas. Students with the highest GPAs would fill 20% of seats at each school, with the remaining 80% of seats going to students from each zip code based on GPA. The new policy had an immediate demographic impact. In fall 2021, white student representation in seventh- and ninth-grade classes dropped from 33% to 24% while Asian American representation dropped from 21% to 16%. Zip codes with mostly white and Asian American students—specifically Chinatown and West Roxbury—had much higher competition for seats. In other words, students who would have earned admission under a citywide competition were instead denied the same educational opportunity under the new policy.

A parent group called the Boston Parent Coalition for Academic Excellence sued, challenging the new admissions policy as unconstitutional. They lost in district court, but represented by Pacific Legal Foundation, they are now appealing in the First Circuit. Their appeal is pending.

II. Although Twin Cases in the Supreme Court and Lower Court Cases Elsewhere Indicate that Anti-Asian Discrimination Is Widespread in Colleges and Universities, the Relevant Federal Agencies Are Either Ignoring the Problem or Supporting the Discriminating Institutions.

¹⁸ Brief of Appellant at 8, *Boston Parent Coalition for Academic Excellence v. Sch. Comm. of the City of Boston*, Nos. 21-1303, 22-1144, (1st Cir. June 14, 2022).

¹⁹ Brief of Appellant at 12.

²⁰ *Id.*

²¹ *Id.* at 13.

²² *Id.*

Anti-Asian racism is also a significant problem in college and university admissions, as highlighted by the two Students for Fair Admissions cases currently under review by the Supreme Court. Anti-Asian discrimination at Harvard is not exactly a bolt from the blue—OCR first investigated anti-Asian discrimination in 1990. OCR’s report then found “recurring characterizations attributed to Asian-American applicants,” such as “quiet/shy, science/math oriented, and hard workers” but nonetheless ultimately concluded that such stereotypes were insufficient evidence of violations of anti-discrimination law.²³

Anecdotal evidence of anti-Asian discrimination at Harvard nonetheless grew, and a group supporting race-neutral admissions called Students for Fair Admissions sued in 2014. Discovery in that case revealed that Harvard uses race at every stage of the admissions process. The university recruits high-school students differently based on race. Black and Hispanic students with PSAT scores of 1100 and up are invited to apply to Harvard, but white and Asian-American students must score a 1350 to get that same invitation. In some parts of the country, Asian Americans must score higher than whites to receive recruitment letters from Harvard.²⁴ Because Harvard’s database is updated daily, a one-pager provides a real-time assessment of the class’s current demographics. The Dean of admissions and financial aid, William Fitzsimmons, regularly updates the entire office on the racial makeup of the class and how it compares to the year before.²⁵

Asian Americans have a significantly lower chance of being admitted to Harvard than students from other racial groups. An Asian American with an academic index in the fourth-lowest decile has virtually no chance of being admitted to Harvard (0.9%); but an African American in that decile has a higher chance of admission (12.8%) than an Asian American in the top decile (12.7%).²⁶ Harvard admits Asian Americans at lower rates than members of any other racial group, even though Asian Americans receive higher academic scores, extracurricular scores, and alumni-interview scores.²⁷ Despite these high extracurricular and alumni interview scores, there is a clear racial hierarchy in personal rating scores, with Asian American students coming in last.²⁸

Anti-Asian discrimination at Harvard and other highly selective colleges is sufficiently well-known that an entire cottage industry exists to help applicants appear “less Asian” to admissions offices.²⁹ College guidebooks like *The Princeton Review* advise Asian American applicants to “be careful about what [they] say and don’t say in [their] applications.”³⁰ An Asian American applicant should “avoid being an Asian Joe Bloggs,”³¹ meaning that she should “distance [herself] as much as possible” from racial stereotypes, such as expressing interests in careers in engineering and medicine³² and should also “get involved in activities other than math club, chess club, and computer club.”³³ One Chinese American

²³ Cited in Petition at 13, *Students for Fair Admissions v. Pres. and Fellows of Harvard College*, No. 20-1199 (U.S. Feb. 25, 2021).

²⁴ Petition at 8.

²⁵ *Id.* at 9.

²⁶ *Id.* at 11.

²⁷ *Id.*

²⁸ *Id.* at 15.

²⁹ *Id.*, citing CA1 Asian-American Coalition Brief at 23–26.

³⁰ Princeton Review, *Cracking College Admissions* 174 (2nd ed. 2004).

³¹ *Id.* at 175.

³² *Id.*

³³ *Id.*

student at Yale wrote “I quit piano, viewing the instrument as a totem of my race’s overeager striving in America. I opted to spend much of my time writing plays and film reviews—pursuits I genuinely did find rewarding but which I also chose so I wouldn’t be pigeonholed.”³⁴

Regrettably, the recent federal response to this discrimination in admissions has been lackluster. While DOJ did file an amicus curiae brief in support of SFFA when the case was still in the First Circuit, it has since reversed course and filed an amicus brief supporting the university that engaged in discrimination. When DOJ began investigating reports that Asian American applicants were being discriminated against at Yale University in a manner similar to Harvard, reportedly so few career Civil Rights Division attorneys were willing to work on the matter that DOJ had to rely entirely on political appointees to develop and bring the case.³⁵ DOJ also abruptly voluntarily dismissed the case against Yale shortly after President Biden took office.³⁶ Student for Fair Admissions eventually brought a lawsuit against Yale very similar to the one CRT abandoned. It is currently pending in district court.³⁷

III. Enforcing Title VI’s Prohibition on Anti-Asian Discrimination Does Not Foreclose Increasing Opportunity for Members of Other Groups.

While critics sometimes charge that enforcing the constitutional and Title VI prohibitions on discrimination against Asian Americans would lead to decreased opportunity for members of other racial and ethnic groups, PLF’s constitutional litigation and policy advocacy indicates otherwise. There is a great deal that government can do besides admissions preferences to bolster opportunity for all. While more details about what such an opportunity agenda could look like are found in PLF’s Students for Fair Admissions amicus brief, its three main planks are noted here.³⁸

First, the Supreme Court should vindicate the right to earn a living. The constitutional right to earn a living is central to individual dignity and empowerment—and one that ought to be considered fundamental under the Due Process Clause of the Fourteenth Amendment. The results of relegating this right to second-class status have been tragic for people seeking to escape their circumstances or earn a living for their families. For example, one court recently rubber stamped a law that has kept Pacific Legal Foundation client Ursula Newell-Davis—a Black social worker and mother of a special needs child—from providing care to disabled children in New Orleans.³⁹ Second, the courts can continue to enforce the right of parents to choose the best school for their children. Today, barriers to school choice primarily

³⁴ Althea Nagai, *Too Many Asian Americans: Affirmative Discrimination in Elite College Admissions*, Center for Equal Opportunity, May 22, 2018, available at https://www.ceousa.org/wp-content/uploads/2019/10/AN.Too20Many20AsianAms.Final_.pdf.

³⁵ James Sherk, “The President Needs the Power to Fire Bureaucrats,” *The Wall Street Journal*, August 8, 2022, available at <https://www.wsj.com/articles/the-power-to-fire-insubordinate-bureaucrats-schedule-f-executive-order-trump-deborah-birx-at-will-civil-service-removal-appeals-11659989383>.

³⁶ Anemona Hartcollis, “Justice Department Drops Suit Claiming Yale Discriminated In Admissions,” *The New York Times*, Feb. 2, 2021, available at [Justice Dept Drops Lawsuit Claiming Yale Discriminated in Admissions - The New York Times \(nytimes.com\)](https://www.nytimes.com/2021/02/02/us/politics/justice-department-yale-discrimination.html).

³⁷ Amelia Davidson, “Students for Fair Admissions Sues Yale, Petitions to Escalate Harvard Case to Supreme Court,” February 25, 2021, available at [Students for Fair Admissions sues Yale, petitions to escalate Harvard case to Supreme Court - Yale Daily News](https://www.pacificlegal.org/wp-content/uploads/2022/05/2022.05.05-SFFA-v-Harvard-Amicus-Brief.pdf).

³⁸ Available at <https://pacificlegal.org/wp-content/uploads/2022/05/2022.05.05-SFFA-v-Harvard-Amicus-Brief.pdf>.

³⁹ Complaint, *Newell-Davis v. Phillips*, Case No. 2:21-cv-00049 (E.D. La. 2021) available at <https://pacificlegal.org/wp-content/uploads/2021/01/newell-davis-v.-phillips-complaint.pdf>.

stifle opportunity for those from disadvantaged backgrounds.⁴⁰ Third, the courts should expand opportunity for all by taking a fresh look at housing policies that wrongfully deprive individuals of their property rights.⁴¹

Conclusion:

Individuals should be treated as individuals and not on the basis of their membership in racial or ethnic groups. We at the Pacific Legal Foundation strive to vindicate that principle through our litigation and advocacy. The civil rights statutes charge DOJ's CRD and DOE's OCR with the same mission. Yet in recent years, both these agencies have done nothing or even sided with the discriminators in cases of blatant anti-Asian discrimination. One struggles to imagine a federal civil rights enforcement agency having a similarly anemic reaction if another group had been the target of the Boston school board chair's hot mic remarks or the Fairfax County School Board text messages. In short, federal civil rights agencies need to enforce the civil rights laws in the same way for all individuals, instead of selectively on behalf of only certain favored racial groups.

PLF will continue to bring cases to vindicate the principle that individuals should not be reduced to their skin color by the government. Vigorous federal enforcement of the relevant laws is an important complement to our work in upholding this bedrock moral truth. We therefore urge the Civil Rights Commission to recommend to the Departments of Justice and Education that they take increased steps to prevent instances of anti-Asian education discrimination.

Sincerely,



Alison Somin
Pacific Legal Foundation

⁴⁰ See Patrick J. Wolf, *Programs Benefit Disadvantaged Students*, EducationNext, Spring 2018, Vol. 18, No. 2, available at <https://www.educationnext.org/programs-benefit-disadvantaged-students-forum-private-school-choice/>.

⁴¹ Brief of Amici Curiae Pacific Legal Foundation, *supra* note 36, at 26–27.